

CHAPTER 150

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 22-1202

BY REPRESENTATIVE(S) Herod and McCluskie, Kipp, Larson, Amabile, Bacon, Benavidez, Bennett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Jodeh, Kennedy, Lindsay, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ricks, Roberts, Sirota, Snyder, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young; also SENATOR(S) Zenzinger and Coleman, Bridges, Kirkmeyer, Lundeen, Buckner, Donovan, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Lee, Moreno, Pettersen, Rodriguez, Story, Winter, Fenberg.

AN ACT

CONCERNING THE CREATION OF A NEW MEASURE IN THE PUBLIC SCHOOL FUNDING FORMULA FOR IDENTIFYING AT-RISK STUDENTS, AND, IN CONNECTION THEREWITH, CREATING A WORKING GROUP IN THE DEPARTMENT OF EDUCATION TO IMPLEMENT THE NEW MEASURE IN A FUTURE BUDGET YEAR AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add 22-54-104.6** as follows:

22-54-104.6. Implementation of at-risk measure - working group - creation - report - legislative declaration - definitions - repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IMPLEMENTING A NEW AT-RISK MEASURE FOR IDENTIFYING STUDENTS WHO ARE AT RISK OF BELOW-AVERAGE ACADEMIC PERFORMANCE BECAUSE OF SOCIOECONOMIC DISADVANTAGES OR POVERTY WILL BENEFIT COLORADO STUDENTS BY:

(I) ENSURING THAT PUBLIC SCHOOLS ARE ABLE TO PARTICIPATE IN UNIVERSAL FREE MEALS PROGRAMS AND REDUCING THE PAPERWORK AND ADMINISTRATIVE BURDEN ON PUBLIC SCHOOLS PARTICIPATING IN THOSE PROGRAMS;

(II) IDENTIFYING AT-RISK STUDENTS DIRECTLY THROUGH THEIR PARTICIPATION IN CERTAIN PUBLIC BENEFIT PROGRAMS WITHOUT THE NEED TO COLLECT FORMS OR OTHER VERIFICATION OF ELIGIBILITY, WHICH OFTEN LEADS TO THE UNDERCOUNTING OF STUDENTS IN THE PUBLIC SCHOOLS THAT NEED RESOURCES TO SERVE THESE STUDENTS; AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(III) RECOGNIZING FACTORS BEYOND HOUSEHOLD INCOME THAT PLACE A STUDENT AT RISK OF BELOW-AVERAGE ACADEMIC PERFORMANCE.

(b) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CREATE A WORKING GROUP CONVENED BY THE COMMISSIONER OF EDUCATION TO DETERMINE HOW TO CONSTRUCT AND IMPLEMENT THE NEW AT-RISK MEASURE FOR USE IN THE STATE'S PUBLIC SCHOOL FUNDING FORMULA.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILDREN'S BASIC HEALTH PLAN" HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-8-103.

(b) "COMMISSIONER" MEANS THE COMMISSIONER OF EDUCATION APPOINTED PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

(c) "IDENTIFIED STUDENT PERCENTAGE" MEANS THE PERCENTAGE OF A DISTRICT'S OR INSTITUTE CHARTER SCHOOL'S STUDENT ENROLLMENT WHO ARE CERTIFIED AS ELIGIBLE FOR FREE MEALS UNDER THE SCHOOL LUNCH PROGRAM BASED ON DOCUMENTATION OF BENEFIT RECEIPT OR CATEGORICAL ELIGIBILITY AS DESCRIBED IN 7 CFR 245.6, OR ANY SUCCESSOR REGULATIONS.

(d) "MEDICAID" HAS THE SAME MEANING AS "MEDICAL ASSISTANCE" AS SET FORTH IN SECTION 25.5-4-103.

(e) "SCHOOL LUNCH PROGRAM" MEANS THE FEDERAL "RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT" CREATED IN 42 U.S.C. SEC. 1751, ET SEQ.

(3) BEGINNING IN THE 2023-24 BUDGET YEAR, THERE IS CREATED A NEW AT-RISK MEASURE IN THE PUBLIC SCHOOL FUNDING FORMULA FOR IDENTIFYING STUDENTS WHO ARE AT RISK OF BELOW-AVERAGE ACADEMIC OUTCOMES BECAUSE OF SOCIOECONOMIC DISADVANTAGE OR POVERTY. THE NEW AT-RISK MEASURE REPLACES THE AT-RISK MEASURE IN EFFECT FOR THE 2022-23 BUDGET YEAR. THE NEW AT-RISK MEASURE IS DESIGNED TO ALLOCATE FINANCIAL RESOURCES TO PUBLIC SCHOOLS TO SERVE THE NEEDS OF AT-RISK STUDENTS. THE NEW AT-RISK MEASURE INCLUDES:

(a) A DISTRICT'S OR INSTITUTE CHARTER SCHOOL'S IDENTIFIED STUDENT PERCENTAGE, SUPPLEMENTED BY STUDENTS IDENTIFIED THROUGH COLORADO'S PARTICIPATION IN THE DEMONSTRATION PROJECT OPERATED PURSUANT TO 42 U.S.C. SEC. 1758 (b)(15) FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING BENEFITS THROUGH MEDICAID AND THE CHILDREN'S BASIC HEALTH PLAN; AND

(b) STUDENT NEEDS THAT ARE WEIGHTED BASED ON AT LEAST FIVE SOCIOECONOMIC-STATUS NEIGHBORHOOD FACTORS, LINKED TO EACH STUDENT'S CENSUS BLOCK GROUP.

(4) ON OR BEFORE AUGUST 15, 2022, THE COMMISSIONER SHALL CONVENE A WORKING GROUP TO PREPARE FOR THE IMPLEMENTATION IN THE 2023-24 BUDGET YEAR OF THE NEW AT-RISK MEASURE CREATED IN SUBSECTION (3) OF THIS SECTION.

(5)(a) THE WORKING GROUP CONSISTS OF STAFF OF THE DEPARTMENTS OF HEALTH CARE POLICY AND FINANCING AND HUMAN SERVICES, APPOINTED BY THE EXECUTIVE DIRECTORS OF THOSE DEPARTMENTS IN CONSULTATION WITH THE COMMISSIONER, AND OTHER MEMBERS APPOINTED BY THE COMMISSIONER PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION. EACH APPOINTING AUTHORITY SHALL APPOINT WORKING GROUP MEMBERS ON OR BEFORE AUGUST 1, 2022.

(b) THE COMMISSIONER SHALL APPOINT MEMBERS TO THE WORKING GROUP TO PROVIDE REPRESENTATION FOR THE FOLLOWING GROUPS:

(I) STAFF OF THE DEPARTMENT OF EDUCATION;

(II) STAFF OF THE STATE CHARTER SCHOOL INSTITUTE;

(III) DISTRICT CHIEF FINANCIAL OFFICERS OR SCHOOL FINANCE DIRECTORS;

(IV) SUPERINTENDENTS OF DISTRICTS;

(V) SCHOOL PRINCIPALS AND DIRECTORS OF CHARTER SCHOOLS;

(VI) SCHOOL SOCIAL WORKERS OR NURSES;

(VII) CHILD WELFARE EDUCATION LIAISONS;

(VIII) THE EDUCATION DATA ADVISORY COMMITTEE CREATED IN SECTION 22-2-304;

(IX) A STATEWIDE ORGANIZATION THAT REPRESENTS EDUCATORS;

(X) A STATEWIDE ORGANIZATION THAT REPRESENTS SCHOOL DISTRICT BOARDS OF EDUCATION;

(XI) A STATEWIDE ADVOCACY GROUP FOR CHARTER SCHOOLS;

(XII) AN ADVOCACY ORGANIZATION THAT REPRESENTS RURAL DISTRICTS;

(XIII) A STATEWIDE ORGANIZATION THAT REPRESENTS PARENTS;

(XIV) A STATEWIDE ORGANIZATION THAT REPRESENTS SCHOOL NUTRITION SERVICE PROVIDERS;

(XV) ADVOCACY GROUPS FOR CHILDREN IN POVERTY;

(XVI) ADVOCACY GROUPS WORKING TO END HUNGER IN COLORADO; AND

(XVII) ANY OTHER GROUPS WITH RELEVANT QUALIFICATIONS OR EXPERTISE.

(6) IN APPOINTING MEMBERS TO THE WORKING GROUP, THE COMMISSIONER SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE MEMBERSHIP REFLECTS THE GEOGRAPHIC DIVERSITY OF THE STATE, INCLUDING MEMBERS FROM RURAL, URBAN, AND SUBURBAN DISTRICTS AND CHARTER SCHOOLS, AS WELL AS LARGE AND SMALL

DISTRICTS. THE COMMISSIONER SHALL ALSO ENSURE REPRESENTATION FROM DISTRICTS THAT SERVE A HIGH NUMBER OF AT-RISK STUDENTS UNDER THE CURRENT SCHOOL FUNDING FORMULA.

(7) THE COMMISSIONER, OR A MEMBER APPOINTED BY THE COMMISSIONER, SHALL SERVE AS CHAIR OF THE WORKING GROUP. MEMBERS OF THE WORKING GROUP SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR EXPENSES.

(8) THE COMMISSIONER, IN CONSULTATION WITH THE EXECUTIVE DIRECTORS OF THE DEPARTMENTS OF HEALTH CARE POLICY AND FINANCING AND HUMAN SERVICES, MAY FORM ISSUE SUBGROUPS, CONSISTING OF WORKING GROUP MEMBERS AND OTHERS WITH RELEVANT EXPERIENCE OR EXPERTISE, TO CONSIDER THE ISSUES ADDRESSED BY THE WORKING GROUP.

(9) THE WORKING GROUP SHALL ADDRESS ISSUES CONCERNING THE CONSTRUCTION AND IMPLEMENTATION OF THE NEW AT-RISK MEASURE CREATED IN SUBSECTION (3) OF THIS SECTION. AMONG OTHER CONSIDERATIONS, THE CONSTRUCTION AND IMPLEMENTATION OF THE NEW AT-RISK MEASURE MAY INCLUDE:

(a) COLLECTING THE NECESSARY DATA TO IMPLEMENT THE NEW AT-RISK MEASURE, WHICH MAY INCLUDE CONSIDERATION OF A SURVEY OF AVAILABLE DATA, THE LEVEL AT WHICH DATA IS COLLECTED, DATA SHARING AND DATA LINKS, STUDENT DATA PRIVACY, AND MINIMIZING THE BURDEN OF DATA COLLECTION;

(b) DEVELOPING THE NEIGHBORHOOD SOCIOECONOMIC-STATUS INDEX, INCLUDING THE DETERMINATION OF FIVE OR MORE INDEX FACTORS, WHICH MAY INCLUDE MEDIAN HOUSEHOLD INCOME, HOMEOWNERSHIP RATE, THE PERCENTAGE OF ADULTS TWENTY-FIVE YEARS OF AGE OR OLDER WITH A BACHELOR'S DEGREE OR HIGHER, THE PERCENTAGE OF CHILDREN WHO ARE FOSTERED OR RAISED BY A NONPARENTAL RELATIVE, OR THE PERCENTAGE OF HOUSEHOLDS WHERE A NON-ENGLISH LANGUAGE IS SPOKEN;

(c) ONCE CENSUS BLOCKS ARE ASSIGNED A SOCIOECONOMIC-STATUS INDEX VALUE, DETERMINING HOW A STUDENT'S NEIGHBORHOOD SOCIOECONOMIC-STATUS INDEX VALUE SHOULD BE INCORPORATED INTO THE AT-RISK MEASURE AND HOW IT WILL IMPACT STUDENTS IDENTIFIED AS PART OF THE DISTRICT'S OR INSTITUTE CHARTER SCHOOL'S IDENTIFIED STUDENT PERCENTAGE;

(d) DETERMINING THE COMPOSITION OF AT-RISK FACTOR FUNDING BASED ON THE IDENTIFICATION OF STUDENTS THROUGH THE NEW AT-RISK MEASURE AND ENSURING THAT AT-RISK FACTOR FUNDING IS EQUITABLY DISTRIBUTED TO IMPROVE ACADEMIC OUTCOMES FOR IDENTIFIED STUDENTS;

(e) DETERMINING HOW DISTRICTS AND INSTITUTE CHARTER SCHOOLS WILL DEMONSTRATE THAT AT-RISK FUNDING IS BEING EXPENDED TO SERVE STUDENTS IDENTIFIED THROUGH THE NEW AT-RISK MEASURE AND RESULTING AT-RISK FACTOR FUNDING;

(f) DETERMINING THE PROCESS FOR IDENTIFYING STUDENTS DURING THE FIRST YEAR OF IMPLEMENTATION AND THE DESIGN AND LENGTH OF A HOLD-HARMLESS

PROVISION FOR DISTRICTS AND CHARTER SCHOOLS;

(g) CONDUCTING PRE-IMPLEMENTATION MODELING AND TESTING USING ACTUAL STUDENT DATA FOR EACH DISTRICT AND CHARTER SCHOOL, IF AVAILABLE;

(h) CONSIDERING THE IMPACT OF THE NEW AT-RISK MEASURE ON OTHER PROGRAMS THAT RELY ON OR REFERENCE THE IDENTIFICATION OF AT-RISK STUDENTS PURSUANT TO THIS ARTICLE 54; AND

(i) ANY OTHER ISSUES DEEMED RELEVANT BY THE COMMISSIONER.

(10) NOT LATER THAN JANUARY 31, 2023, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE LEGISLATIVE INTERIM COMMITTEE ON SCHOOL FINANCE, THE JOINT BUDGET COMMITTEE, AND THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, INCLUDING:

(a) A SUMMARY OF THE PROGRESS OF THE WORKING GROUP IN RESOLVING ISSUES CONCERNING THE COMPOSITION AND IMPLEMENTATION OF THE NEW AT-RISK MEASURE AND AT-RISK FACTOR FUNDING;

(b) FINDINGS AND RECOMMENDATIONS OF THE WORKING GROUP FOR IMPLEMENTATION OF THE NEW AT-RISK MEASURE FOR THE 2023-24 BUDGET YEAR, INCLUDING RECOMMENDATIONS FOR ANY LEGISLATION NECESSARY TO IMPLEMENT THE NEW AT-RISK MEASURE, AS WELL AS FINANCIAL RESOURCES NEEDED TO ADMINISTER THE NEW AT-RISK MEASURE;

(c) A SUMMARY OF ANY FINANCIAL MODELING OF THE NEW AT-RISK MEASURE FOR INDIVIDUAL DISTRICTS OR CHARTER SCHOOLS, IF AVAILABLE; AND

(d) AN ESTIMATE OF THE IMPACT OF THE NEW AT-RISK MEASURE ON THE COST OF TOTAL PROGRAM FUNDING.

(11) THE DEPARTMENT OF EDUCATION SHALL APPLY TO THE UNITED STATES SECRETARY OF AGRICULTURE TO PARTICIPATE IN THE DEMONSTRATION PROJECT OPERATED PURSUANT TO 42 U.S.C. SEC. 1758 (b)(15) FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS, WITH THE INTENT THAT THE DEMONSTRATION PROJECT IS IMPLEMENTED STATEWIDE TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW. IF THE STATE IS SELECTED TO PARTICIPATE IN THE DEMONSTRATION PROJECT, THE DEPARTMENT OF EDUCATION SHALL COMPLY WITH ALL OF THE REQUIREMENTS OF THE DEMONSTRATION PROJECT, INCLUDING ENTERING INTO AN AGREEMENT WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ESTABLISH PROCEDURES BY WHICH A STUDENT MAY BE CERTIFIED, WITHOUT FURTHER APPLICATION, AS MEETING THE ELIGIBILITY REQUIREMENTS FOR FREE OR REDUCED-PRICE MEALS PURSUANT TO THE NATIONAL SCHOOL BREAKFAST PROGRAM AND THE NATIONAL SCHOOL LUNCH PROGRAM BASED ON INFORMATION COLLECTED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING IN IMPLEMENTING THE MEDICAID PROGRAM.

(12) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 2. Appropriation. (1) For the 2022-23 state fiscal year, \$163,338

is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$128,341 for federal nutrition programs, which amount is based on an assumption that the department will require an additional 0.4 FTE; and

(b) \$34,997 for administration related to public school finance, which amount is based on an assumption that the department will require an additional 0.1 FTE.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 3, 2022